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NO. 75-1355

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1976

KEVIN J. BURNS, Commissioner of the Department of Social Services of the State of Iowa, et al.;

Appellants,

vs.

KAREN HEIN, ET AL.

Appellees.

ON APPEAL FROM
THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF IOWA

STATE APPELLANTS' BRIEF

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INDEX

	Page
Opinion below	1
Jurisdiction	2,3
Questions Presented	3
Statement of the case	3,4
Statutes Involved	5
Argument	
I	5
II	11
Conclusion	15
Appendix A	
Federal Food Stamp Act	1a,2a
Appendix B	
Federal Regulations	3a,4a
Appendix C	
Code of Iowa	5a
Appendix D	
Iowa Departmental Rules	6a

CITATIONS

Cases:

Dandridge v. Williams 397 U.S. 471	8
Edelman v. Jordon (1973) 415 U.S. 651 & 677	11,12,13,14
Ex Parte Young, (1908) 209 U.S. 123	14

Ford Motor Co. v. Department of Treasury
323 U.S. 459 12,14
Lavine v. Milne (1976) 44 L.W. 4295 11
Metcalf & Eddy v. Mitchell, 269 U.S. 514 (1926) 10
National League of Cities, et al. v. Usery
(June 24, 1976) 44 L.W. 4974 10
Richardson v. Belcher (1971) 404 U.S. 78 10,11
Rosado v. Wyman, (1970) 397 U.S. 397 11
Shapiro v. Thompson (1968) 394 U.S. 618 7
Shea v. Vialpando 416 U.S. 251 5
Texas v. White, 7 Wall, 700, 725 (1869) 10
Weinberger v. Salfi 422 U.S. 749 11

Federal Statutes
7 U.S.C. 2014 (Food Stamp Act, 1964) 6,1a
7 U.S.C. 2013(c) (Food Stamp Act, 1964) 6,1a
7 U.S.C. 2019 (b)(e)(2) (Food Stamp Act, 1964) . . 12,13,1a
7 U.S.C. 2024 (Food Stamp Act, 1964) 13,1a

Federal Regulations
7 C.F.R. 271.3(c)(1)(iii)(f) 2,5,7,3a
7 C.F.R. 271.3(c)(1)(i), (g), (h) 3a
7 C.F.R. 271.3(c)(1)(iii)(a) 2,5,7,13,3a
7 C.F.R. 270.2(yy) 4,8,3a
7 C.F.R. 271.1(o)(ii) 13,4a
7 C.F.R. 271.4(a)(2)(iii) 9,13,4a

Code of Iowa, 1973, 1975:
Chapter 249C 4,5a
Section 249C.3 . . . . . 4,5a
249C.15 . . . . . 5a
Section 234.11 . . . . . 4,5a
Section 249C.4 . . . . . 4,5a

Iowa State Regulations
Iowa Department of Social Services Manual:
VII-3-2264.1 7
VII-3-16(d) 2,7

Iowa Departmental Rules (1973 I.D.R.)
58.4(249C) 6a
Iowa Administrative Code 770-55.4 (249C) 6a

Miscellaneous
Leg. Hist. P.L. 91-671, U.S. Code Cong. and Adm. News,
p. 6025 at p. 6034 7

Leg. Hist. P.L. 91-671, U.S. Code Cong. and Adm. News,
p. 6025 at p. 6035 8

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Appellants,

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Appellees.

ON APPEAL FROM
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STATE APPELLENTS' BRIEF

Opinion Below

The opinion of a panel of three judges of the United States District Court of the Southern District of Iowa is reported at 402 F. Supp. 398 and appears as Appendix A and B, pp. la-25a respectively, of Jurisdictional Statement filed herein by Earl Butz, Secretary of Agriculture, Appellant, on March 5, 1976.

Jurisdiction

The order of the three-judge panel convened herein enjoined Appellants, Kevin J. Burns, Commissioner of the Department of Social Services of the State of Iowa from enforcing it's statewide regulation which deducted from income a "training allowance" for transportation expenses allotted to food stamp recipients under an approved State Individual Education Training Plan for recipients in the Aid to Dependent Children Program (ADC), and enjoined the Secretary of Agriculture from enforcing a like regulation 7 C.F.R. 271.3(c)(1)(iii)(f) on the ground that said State and Federal regulations conflict with the Food Stamp Act and deny due process and equal protection under the Federal Constitution. The judgment order was entered October 10, 1975, and appears in the Jurisdictional Statement of Appellant Earl Butz, as Exhibits A and B, pp. la-25a.

A notice of appeal to this Court was filed by these Appellants on the 8th day of December, 1975, copy of which appears as Appendix A, Jur. Stat. p. 1a. On February 2, 1976, Mr. Justice Blackmun extended the time for docketing the appeal to and including March 7, 1976, and on March 2, 1976, granted a further extension of time to and including March 22, 1976.

Jurisdiction is conferred on this Court by 28 U.S.C. 1253 which permits a direct appeal by any party against whom an order for a permanent injunction was entered in a civil action required to be heard by a District Court of three judges.

This Court previously assumed jurisdiction of this case, then captioned as Kevin J. Burns, Commissioner, et al., vs. Karen Hein, et al., Sup. Ct. 73-1882. In the order being appealed from at that time, the three-judge panel had rejected the motion to interplead the Federal Government. Upon remand, Earl Butz, Secretary of Agriculture, was joined and the judgment now sought for review is entered against both the Commissioner of the Department of

Social Services of the State of Iowa and the Secretary of Agriculture.

Questions Presented

I. Whether 7 C.F.R. 271.3(c)(1)(iii)(f), and the analogous Iowa regulations, Iowa Department of Social Services Manual, VII-3-16(d), which disallows an itemized deduction for training transportation expenses for purposes of computing the income of food stamp recipients, conflicts with the Food Stamp Act or denies equal protection or due process in view of 7 C.F.R. 271.3(c)(1)(iii)(a), and Iowa's analogous regulation, which allow ten percentum of the training allowance, including transportation expense, as a uniform national standard?

II. Does this order contravene the Eleventh Amendment?

STATEMENT OF THE CASE

Appellants, Kevin J. Burns, Commissioner of the Department of Social Services of the State of Iowa, et al., will adopt the Statement of the Case appearing in the brief of Appellant, Earl Butz, with the following additions:

Appellee, Hein, in addition to receiving food stamps, was also receiving an Aid to Dependent Children Grant (ADC) and a "training allowance" from Iowa's Individual Training and Education Program which originally allowed her $44.00 per month (plus tuition and fixed expenses) and increased to $66.00 per month by a change in Iowa's Departmental Rules and Regulations.)[1]

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[1] The regulation appeared in the July, 1972 Supp. Iowa Departmental Rules, later in the 1973 I.D.R. at p. 1026. An amendment increasing the "training allowance" to $60.00 per month was filed August 26, 1974 and the current "training expenses" regulation now appears in Iowa Administrative Code as 770-55.4. (App. D P6a, *infra*).

In the year 1969, Iowa, on its own initiative, created, funded, and still administers the Iowa Individual Education and Training Program, Chapter 249C, 1973 Code of Iowa.[2] Although primarily State funded, it lately has been receiving some federal funds under Title XX of the Social Security Act. *However, Section 249C.4 provides that the program "shall continue whether or not federal programs and federal funds are available."*[3]

In 1972, the Appellant, Commissioner of the State of Iowa and the State Legislative Rules Committee promulgated the following regulation:

> "58.4 (249C) Training Expenses. An allowance shall be made for expenses of training. This shall include tuition, books, fees, including graduation, GED testing and certificate fees, and any other fees required for completion of the training, and required uniforms and tools. A work and training allowance of forty-four dollars per month shall be provided a person participating in a full-time training plan . . . "

Also worthy of note at this point is the Food-Stamp Act definition of "training allowance" which reads (7 C.F.R. 270.2.(yy)):

> "(yy "Training allowance") means payments made on behalf of or received by a household member from the Work Incentive Program, [WIN] Manpower Development Programs or similar State or local government-sponsored vocational rehabilitation programs."

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[2] (Code of Iowa, 1973, §234.11, 249 C.3, State App. Jur. Stat. p. 5a)

[3] The Iowa Legislature appropriated $400,000.00 and $420,000.00 for its 1976 and 1977 Work Training Program respectively.

STATUTES INVOLVED

Pertinent Constitutional Amendments, Federal Statutes, Regulations, State Statutes, Regulations and Manual material appear in the Appendix to the State Appellants' Jurisdictional Statement or Appendix *infra*, as shown by the Index and footnotes, *infra*.

ARGUMENT

I

THE REGULATION DOES NOT VIOLATE THE FOOD STAMP ACT AND DOES NOT VIOLATE THE DUE PROCESS NOR EQUAL PROTECTION PROVISIONS OF THE FEDERAL CONSTITUTION.

The offending regulation does not conflict with any express language in the Food Stamp Act and thus *Shea v. Vialpando* 416 U.S. 251 cited by the District Court (Jur. St. Butz, p. 15a) is not applicable. In *Shea* the decision turned on the term "any" appearing in § 402(a)(7) of the Social Security Act.

It will be seen that the offending regulation, 7 C.F.R. 271.3(c)(1)(iii)(f), "deductions"[4] when read together with the pertinent regulation 271.3(c)(1)(iii)(a),[5] "exemptions", in the light of the administrative explanation (all of which the District Court failed to consider), does not conflict with the purpose of the Food Stamp Act and does not violate equal protection nor due process rights.

Congress, instead of defining "income and other financial resources, including both liquid and nonliquid assets," left that

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[4] 271.3(c)(1)(iii)(f) - and

[5] 271.3(c)(1)(iii)(a) (State App. Jur. Stat. p. 5a)

task to the expertise of the Secretary of Agriculture "in consultation with the Secretary of Health, Education, and Welfare" to establish uniform national standards of eligibility." 7 U.S.C. 2014.[6] Beneficiaries of the Act were favored with "exemptions" and "deductions", the regulations concerning such, were promulgated under the "general" rule making authority since there was no provision in the Act directing the Secretary to make any exceptions to consideration of gross income. 7 U.S.C. 2013 (a) and (c). [6a]

The Secretary in drafting the "exemption" of ten percent of the "training allowance" at that place *took into consideration any "transportation costs"*. "It was also determined that the administrative burden of determining and verifying the expenses for the infinite variety of other outlays which may be incurred for education would be undue. Further, these other expenses, because of personal preference or otherwise, vary greatly from person to person and thus from household to household." The Secretary restricted the amount that could be "deducted" to items of tuition and mandatory school fees since the "student's ordinary cost of living" and "other expenses" because of personal preference or otherwise, vary greatly from person to person and thus household to household."[7]

It was well within the administrative judgment to allow a ten percent across the board "exemption" (in lieu of itemization of personal preference expenditures) in establishing said uniform national standards of eligibility. This recognition that food stamp recipients have some control over their food buying power meets

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[6](State App. Jur. Stat. p. 3a)

[6a] (Butz Jur. Stat. p. 3,4)

[7] Letter from Claude T. Coffman, Deputy General Counsel, Department of Agriculture, dated March 11, 1974, filed with Motion for New Trial March 13, 1974, as part of the record herein. (see page 2, Appendix C, p. 7a, State Appellants Juris. Stat.)

the goal of Congress "that food stamps should be used to supplement, not substitute for, the normal buying power of low income families." Legislative History P.L. 91-671, U.S. Code Cong. and Adm. News, p. 6034.

This rationale alone should be sufficient, but there are others, as hereinafter noted.

The District Court draws two classifications, thusly, "Food stamp recipients who are receiving a transportation allowance constitute one class, those not receiving such an allowance the other." (Jur. St., Butz, p. 16a) It will be hereafter shown that those within the first classification are equally as well off food-wise as those who are not in any training program.

Those in the first group, receive a flat $44.00 "training allowance" in a State warrant separate from their ADC check whether or not they need it for commuting, i.e., those living where the school is located do not need this allowance for commuting and thus have $44.00 per month available for food purchases. Likewise, those living at a distance, such as Appellee Hein, has the free choice of moving to the site of the school and being able to use her $44.00 per month "training allowance" to purchase food (and without losing her ADC cash grant, *Shapiro v. Thompson* (1968) 394 U.S. 618.)

Everyone in this classification is treated alike, i.e., from this "training allowance" ten percent is "exempted" and the tuition and mandatory fees are deducted. (7 C.F.R. 271.3(c)(1)(iii)(a); 7 C.F.R. 271.3(c)(1)(iii)(f).[8] These two analogous regulations appear in the Iowa State Department of Social Services Manual at VII-3-2264.1 and VII-3-16.(d).)[9] Also, everyone in this classification pays $58.00 for $94.00 worth of stamps.

8-9 (State App. Jur. Stat. App. p. 5a)

Likewise, those comprising the second classification receive equal treatment and everyone therein has the option to buy $96.00 worth of stamps for $46.00.

As between the two classifications, then, there is a compensating factor. By exercising their residency options, those within the first classification have $44.00 with which to purchase food for which they pay $12.00 more for food stamps than those in the second classification. One has the advantage in cash, the other in food stamp costs.

Another rationale for the regulation is that it could well serve to deter some individuals from unduly prolonging their education, thus achieving the goal of Congress "to assure" that "the job training provisions of the amendment are not abused" . . . by "some individuals" . . . "becoming near permanent students by attending training classes in a multiplicity of subjects." (Legislative History Pub. Law 91-671, amending the Food Stamp Act of 1964, U.S. Code Congressional and Administrative News 91st Congress 2d Session p. 6035.) Such is a reasonable rationale within the meaning of *Dandridge v. Williams* (1970) 397 U.S. 471.

Another rational relationship to a legislative goal is to prevent an erosion of Iowa's wholly State-created training plan wherein the "training allowance" is granted.

The Court, by its injunctive Order, which, at first blush, may look inoculous and harmless to Iowa's Work and Training Program (and indeed the WIN program and all other state and federal programs)[9a] could strike a death blow to the program.

[9a] 7 C.F.R. 270.2 (yy) (App. p. 3a, *infra*).

The requirements of the Court are severe. State and Federal defendants were enjoined *"from including in the monthly net income of any person**** any amount received by such person as reimbursement for necessary commuting expenses, pursuant to an Individual Education and Training Plan, unless such amount is deducted from such person's monthly net income in determining**** adjusted net income."*[10] This means accounting for the actual costs of "necessary commuting."

The words "training allowance connotes a grant of money for unaccountable items. The Secretary, in making the regulation under attack, respected the considered administrative judgment of Iowa in not burdening the administration nor burdening the "trainee" with accounting for each penny spent. The Iowa Legislature prefers to give a $66.00 per month allowance for transportation and meals at school on school-attendance days rather than pay the additional administrative costs in gathering the day-by-day travel expenditures each month which under the Food Stamp Regulations must be verified at least by affidavit and in some cases by office conferences, home visits, telephone calls. (§ 271.4 "Certification of household").[11]

A complete answer to the "rationally related" issue, then, could be that the Secretary, in *not* requiring an itemized statement of travel expenses (but instead allowing a flat ten percent of the "training allowance"), wanted to encourage the State of Iowa to continue its Individual Training and Work program by not interfering with the administrative procedures developed therein and with the expenditure of State monies; and, equally as important, he wanted to encourage trainees to continue their training programs who might terminate the same if required to itemize their actual expenditures in a sworn statement.

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[10] Butz Jurs. Stat. App. A p. 22a.

[11] (7 C.F.R. §271.4 App. p. 4a *infra*)

Analogous to this instant case are decisions of this Court, *Richardson v. Belcher* (1971) 404 U.S. 78 and the recent *National League of Cities, et al. v. Usery* (June 24, 1976) 44 L.W. 4974. In both cases States' rights were involved.

In *Richardson, supra,* (at p. 84) this Court in saying that the Federal Program there involved might "lead to the gradual weakening or atrophy of the State Programs" concluded by saying that since the "goals sought are legitimate, and the classification adopted is rationally related to the achievement of those goals then the action of Congress is not so arbitrary as to violate the Due Process Clause of the Fifth Amendment."

This Court in *National League of Cities, supra,* in tracing early decisions commencing with *Texas v. White*, 7 Wall, 700, 725 (1869) wherein Chief Justice Chase declared that "the Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States", continuing said at p. 4977:

> "In *Metcalf & Eddy v. Mitchell*, 269 U.S. 514 (1926), the Court likewise observed that "neither government may destroy the other nor curtail in any substantial manner the exercise of its powers." Id., at 523 . . . . "
>
> "We have repeatedly recognized that there are attributes of sovereignty attaching to every state government which may not be impaired by Congress, not because Congress may lack an affirmative grant of legislative authority to reach the matter, but because the Constitution prohibits it from exercising the authority in that manner."

Iowa desires to retain its flat-sum "training allowance" which it had determined to be the only practical way to encourage persons to participate in its Work and Training program (instead of requiring trainees to account for each expenditure.)

Iowa does not waive its sovereign immunity and it does not feel it fair nor constitutionally permissible to be forced to expend money from its treasury in the Food Stamp program for what it years ago had deemed an administrative waste in its own program. This Court emphasized in *Rosado v. Wyman*, (1970), 397 U.S. 397, 420 that "New York is, of course, in no way prohibited from using only *state* funds according to whatever plan it chooses, providing it violates no provision of the Constitution."

As stated by this Court in *Lavine v. Milne*, (1976) 44 L.W. 4295, Footnote 9, "Welfare benefits are not a fundamental right, and neither the State nor Federal Governments are under any sort or constitutional obligation to guarantee minimum levels of support."

In addition to the holding in *Richardson, supra*, the "irrebutable presumption" due process argument was likewise rejected in *Lavine v. Milne, supra* and *Weinberger v. Salfi*, 320 U.S. 749.

II

THE ORDER VIOLATES THE ELEVENTH AMENDMENT

The three-judge panel cited three U.S. District Court decisions (all predating, *Edelman v. Jordon* (1973) 415 U.S. 651), in ordering Appellants, Kevin J. Burns, Commissioner of the Department of Social Services of the State of Iowa, et al., (County Department and Secretary Butz) to make "forward adjustments," saying:

> "We conclude further that defendants should promptly recompute the adjusted net income for each person who is presently participating in Food Stamp Program and who has been paying a wrongfully high price for his food stamp

> allotment because his adjusted net income has been improperly computed for the reasons set forth above, and make a forward adjustment of the price of future stamps by reducing the price of food stamp coupons in future months by whatever amount necessary for as many months as necessary so as to fully compensate the recipient financially for food stamps wrongfully denied in the past. *Steward v. Butz* (W.D. Ky., 1973), 356 F. Supp. 1345, 1354; *Bermudez v. U.S. Department of Agriculture* (D. D.C. 1972), 348 F. Supp. 1279, 1281; *Tindall v. Hardin* (W.D. Pa., 1972), 337 F. Supp. 563, 566-56."[12]

In their Memorandum filed herein on April 12, 1974 prior to the remand, Appellants stated that prospective adjustments "in reality" are retroactive payments and cannot be made against the State of Iowa, citing *Edelman, supra.* Appellee, in her "Second Supplemental Memorandum on Issue of Relief" filed April 8, 1974, also discussed *Edelman, supra.* **However, in said order, which is being appealed from herein, the same three-judge court made no mention of *Edelman, supra,* nor of the bar of this judgment against the State of Iowa.** [Even if the Eleventh Amendment had not been raised, "the Eleventh Amendment defense sufficiently partakes of the nature of a jurisdictional bar so that it need not be raised in the trial court." *(Edelman, supra,* p. 678 and *Ford Motor Co. v. Department of Treasury* 323 U.S. 459); and, the Eleventh Amendment is a bar to this judgment although State Officials instead of the State of Iowa were named parties, since any payments would be made by the State. *Edelman, supra* p. 663].

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[12] Butz Jur. Stat. App. A p. 23a, App. B p. 25a.

[13] 7 U.S.C. §2019 (b)(e)(2) App. p. 2a *infra)*

The Food Stamp Act requires the States to provide the administrative services of the Food Stamp Program (7 U.S.C. § 2019[13] (b)(e)(2)), and requires the States to pay one-half of the cost thereof. (7 U.S.C. § 2024).[14]

And, identifying those affected by the Order from the approximately 40,000 current food stamp caseload and recomputing their food-stamp costs for each month, will be no small task. The Court Order requires reimbursement of the amount for "necessary commuting expenses" to be included in the "deduction" (instead of ten percent of the training allowance under the regulations, (7 C.F.R. § 271.3 (c)(1)(iii)(a)).[15] Thus, each recipient would need to state under oath the number of school days in attendance, mode of transportation, (i.e. walking, driving, sharing rides, accepting gratituious rides, etc.,) for each school-day attendance for each month and the cost incurred on each day. (It is conceivable that some recipients would need to gather information as far back as 1969 when Iowa's Individual Training Program was commenced.)

The State worker would need to verify (7 C.F.R. 271.4 (a)(2)(iii)[16] all this information *before being able to start making the "forward adjustment"*. This kind of administrative detail is not that contemplated by the Secretary, (7 C.F.R. 271.1 (o)(ii)),[17] as claimed by Appellee in her Motion to Affirm filed herein. That regulation is restricted to corrections following administrative hearings and cannot be construed as authorization for this judgment against the State of Iowa. *Edelman, supra*, p. 673.4).

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[14] 7 U.S.C. §2024 App. p.2a *infra*)

[15] State App. Jur. Stat. App. p. 5a

[16] App. p.4a *infra*)

[17] App. p. 4a *infra*)

[In addition to an Eleventh Amendment violation, the Court Order calls for an impractical, and in some cases an impossible solution. For example, after all work has been completed by the State and the amount of the "forward adjustment" computed "for as many months as necessary so as to fully compensate the recipient", the food-stamp recipient may already have left the Food Stamp Program. All of this would produce administrative waste, for surely the Court did not intend to make someone eligible for food stamps when he is not otherwise eligible under the Food Stamp Act.]

Although the District Court referred to its mode of restitution as a "forward adjustment", (referred to as "equitable restitution" by the circuit court in *Edelman, supra,*) it is "in practical effect, indistinguishable in many aspects from an award of damages against the State." *(Edelman, supra,* p. 668).

> "Though a §1983 action may be instituted by public aid, recipients such as respondents, a Federal Court's remedial power, consistent with the Eleventh Amendment, is necessarily limited to prospective injunctive relief, *Ex Parte Young, supra,* (1908) 209 U.S. 123, and may not include a retroactive award which requires the payment of funds from the state treasury, *Ford Motor Co. v. Department of Treasury, supra,* (1945) 323 U.S. 459." *(Edelman v. Jordon,* 415 U.S. 677.)"

CONCLUSION

State Appellants sincerely believe that Appellee Hein has not stated a cause of action upon which relief can be granted and that the case should be remanded in both its prospective injunctive and retroactive aspects with instructions to dismiss the case.

Respectfully submitted.

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APPENDIX
IN THE
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

Civil No. 73-240-1

[Filed Nov. 7, 1975, R.E. Longstaff, Clerk,
U.S. District Court, Southern District of Iowa]

KAREN HEIN, Individually and on behalf of all other persons similarly situated, PLAINTIFFS

vs.

KEVIN J. BURNS, ET AL., DEFENDANTS

APPENDIX A

FEDERAL LAW
FOOD STAMP ACT

7 U.S.C. § 2014

(c) . . . . . State-Appellants Jur. Stat. p. 3a.

7 U.S.C. § 2013

(c) . . . . . State-Appellants Jur. Stat. p. 5.

7 U.S.C. § 2019

"(b) The State agency of each participating State shall assume responsibility for the certification of applicant households and for the issurance of coupons . . . "

(e)(2) " . . . (2) that the State agency shall undertake the certification of applicant households in accordance with the general procedures and personnel standards prescribed by the Secretary in the regulations issued pursuant to this chapter; . . . "

7 U.S.C. § 2024

" § 2024. State financing of administrative costs; Federal payments to State agencies; reports on effectiveness of administration of Food Stamp Program; qualified personnel.

(a) Except as otherwise provided in this section, each State shall be responsible for financing, from funds available to the State or political subdivision thereof, the costs of carrying out the administrative responsibilities assigned to it under the provisions of this Act.

(b) The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs . . . "

APPENDIX B

7 C.F.R. § 271.3(c)
DEFINITION OF INCOME

(1) . . . . . State-Appellants Jur. Stat. pp. 2,5,7.

(iii) . . . . . State-Appellants Jur. Stat. pp. 2,5,7.

(f) . . . . . State-Appellants Jur. Stat. pp. 2,5,7.

(g) Payments received from Government-sponsored programs such as Agricultural Stabilization and Conservation Service programs, the Work Incentive Program, or Manpower Training Program;

(h) Payments, except those for medical costs, made on behalf of the household by a person other than a member of the household;

7 C.F.R. § 271.3(c)

(a) . . . . . State-Appellants Jur. Stat. pp. 3,5,7.

7 C.F.R. § 270.2
DEFINITION OF TRAINING ALLOWANCE

"(yy) 'Training allowance' means payments made on behalf of or received by a household member from the Work Incentive Program, Manpower Development Programs or similar State or local government-sponsored vocational rehabilitation programs."

7 C.F.R. § 271.1
ADMINISTRATIVE HEARINGS

" (o) *Fair hearing.* Each Agency shall provide any household aggrieved by any action of the State agency . . . "

" (ii) An interview at initial certification and any subsequent certification with the applicant or his authorized representative in a personal contact in the office, in a home visit, or by a telephone call . . . "

" (11) The State agency is responsible for assuring that all hearing decisions are promptly implemented. When the hearing authority rules that a household has been improperly denied program benefits or has been overcharged for its coupon allotment, credit for such lost benefits or refund of the overcharge shall be promptly provided if appropriate. . . "

7 C.F.R. § 271.4
CERTIFICATION OF HOUSEHOLDS

"(a) *Household certification*—(1) *Certification of public assistance and general assistance households.* The State agency shall provide for the certification of households in which all members are included in a federally aided public assistance or general assistance grant, solely on the basis of information contained in an affidavit and the assistance case file."

" (2) *Certification of other households.* The State agency shall provide for the certification of other households by:

(i) Completion of the Application for Participation;

(ii) An interview at initial certification and any subsequent certification with the applicant or his authorized representative in a personal contact in the office in a home visit, or by a telephone call . . . "

APPENDIX C

CODE OF IOWA, 1973, 1975

249C.3 Work and training program. State-Appellants Jur. Statement. pp. 3,4.

249C.15 Rules adopted. State-Appellants Jur. Statement. pp. 3,4.

234.11 Duties of the county board-food stamp program . . . State-Appellants Jur. Statement. p. 5(a).

249C.4 "Cooperation. The program shall provide for maximum cooperation with and participation in federal programs having similar purposes, but the state work and training program shall continue whether or not federal programs and federal funds are available."

APPENDIX D

IOWA DEPARTMENTAL RULES

From the 1973 I.D.R. page 1026:

> "58.4(249C) Training expenses. An allowance shall be made for expenses of training. This shall include tuition, books, fees, including graduation, GED testing and certificate fees, and any other fees required for completion of the training, and required uniforms and tools. A work and training allowance of forty-four dollars per month shall be provided to a person participating in a full-time training plan . . . "

The Regulation was renumbered and currently appears in the Iowa Administrative Code as Number 770-55.4(249C).

> "55.4(249C) Training expenses. An allowance shall be made for expenses of training. This shall include tuition, books, fees, including graduation, GED testing and certificate fees, and any other fees required for completion of the training, and required uniforms and tools. A work and training allowance of sixty dollars per month shall be provided to a person participating in a full-time training plan. A full-time training plan consists of at least thirty hours per week. A person participating in a part-time training plan shall receive an allowance for transportation at the rate of fifteen cents per mile to and from the training site with a maximum of forty-five dollars per month. No allowance shall be made for any item that is being paid for through earnings that are diverted for that purpose."